

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Establishment – Forest Department – Sri R. Kondala Rao, Deputy Conservator of Forests / Divisional Forest Officer, Logging Division, Chintur – Retrospective promotion to the category of Deputy Conservator of Forests on par with his immediate junior, Sri N. Nageswara Rao, in the panel year of 2009-10 in relaxation of rule 33 (a) of the Andhra Pradesh State and Subordinate Service Rules, 1996 and also notional promotion with consequential benefits from the panel year 2005-06 onwards on par with his junior – Orders – Issued.

ENVIRONMENT, FORESTS, SCIENCE & TECHNOLOGY (SEC.V) DEPARTMENT
G.O.MS.No. 36

Dated: 30-12-2020

Read the following:-

- 1) G.O.Ms.No.139, Environment, Forests, Science & Technology (Sec.V) Department, dated 21.08.2010.
- 2) G.O.Ms.No.106, Environment, Forests, Science & Technology (For.V) Dept., dated 06.09.2011.
- 3) Memo.No.1636/For.Sec.V/2014-2, dated 21.01.2015.
- 4) [G.O.Ms.No.39](#), Environment, Forests, Science & Technology (Sec.V) Dept., dated 05.07.2017.
- 5) From the Hon'ble Andhra Pradesh Administrative Tribunal, orders, dated 02.04.2019 in O.A. No.1251/2018.
- 6) From the Hon'ble High Court of Andhra Pradesh, common orders, dated 12.11.2019 in W.P.No.14355/2019, W.P.No.7825/2019 and W.P.No.16509/2019.
- 7) C.C. No.412/2020 in W.P.No.14355 of 2019 filed by Sri R. Kondala Rao before the Hon'ble High Court of Andhra Pradesh.
- 8) Record of Proceedings of Supreme Court of India in Special Leave Petition (CIVIL) Dairy No(S).13917/2020, dated 05.10.2020.
- 9) From the Principal Chief Conservator of Forests & HoFF, A.P., Guntur, Lr.Rc.No.12564/2017/Admn-2, dated 06.10.2020 & 08.10.2020.
- 10) Memo.No.EFS01-15021/164/2018-S5- Environment, Forests, Science & Technology, dated 27.10.2020 and 02.11.2020.
- 11) From the Principal Chief Conservator of Forests & HoFF, A.P., Guntur, Lr.Rc.No.12564/2017/Admn.2, dated 08.12.2020 and 19.12.2020.

ORDER:

Sri R. Kondala Rao, Deputy Conservator of Forests was initially appointed as Assistant Conservator of Forests by direct recruitment on 12.04.1999. While he was working as Divisional Forest Officer, Social Forestry, Adilabad from January, 2007 to July, 2009, certain works were executed under World Bank Aided Andhra Pradesh Community Forest Management Project in Adilabad. It came to light that he did not supervise the works, allowed the staff to book the expenditure without execution of works, resulting in excess expenditure of Rs.97,115/-. Therefore, Departmental proceedings were initiated against him for the said lapses and Articles of Charge were issued vide Rc.No.14265/2009/P.4, dated 14.10.2009 of Principal Chief Conservator of Forests, Andhra Pradesh, Hyderabad.

(P.T.O)

2. Sri R. Kondala Rao, Assistant Conservator of Forests came under zone of consideration for promotion to the category of Deputy Conservator of Forests for the panel year 2009-10. But, in view of the pendency of disciplinary proceedings against the individual, the Screening Committee recommended that the "promotion should be deferred until termination of disciplinary case".

3. In the G.O. 1st read above, as per the recommendations of Screening Committee, the Government issued orders giving promotions to certain Assistant Conservators of Forests to the category of Deputy Conservators of Forests for the panel year 2009-10.

4. In the G.O. 2nd read above, Sri R. Kondala Rao was considered by the Screening Committee for the panel year 2010-11 and he was promoted as Deputy Conservator of Forests.

5. The disciplinary proceedings pending against Sri R. Kondala Rao, Assistant Conservator of Forests were concluded by awarding the penalty of 'CENSURE' besides recovery of proportionate loss caused to Government i.e. Rs.24,729/- vide Government Memo No.1358/For.IV/A1/2009-8, Environment, Forests, Science & Technology (For.IV) Dept., dated 12.12.2012.

6. Aggrieved by the punishment orders, Sri R. Kondala Rao filed O.A.No.4336/2015 before the Hon'ble Andhra Pradesh Administrative Tribunal praying to set-aside the penalty. The Hon'ble Andhra Pradesh Administrative Tribunal in its order, dated 10.05.2017 allowed the O.A. and set-aside the impugned orders, dated 12.12.2012. Against the orders of Andhra Pradesh Administrative Tribunal, Government filed W.P.No.40722/2017 in the Hon'ble High Court of Andhra Pradesh and the same was dismissed on 01.03.2018.

7. In the reference 3rd read above, the Government issued orders, considering the request of certain officers who were promoted during the panel year 2009-10 for notional promotion with consequential benefits from the panel year 2004-05 onwards, as there is no change in roster points fixed in the panel year 2009-2010, except the position showing to the respective panel years, as follows:

Sl. No.	Panel Year	No. of Vacancies	Date of Promotion/Seniority	Name of the Officers included
1.	2004-05	03	01-9-2004	Dr.B.Prabhakar
				G.Nageswara Rao
				T.V.Subba Reddy
2.	2005-06	05	01-09-2005	G. Ramalingam
				S. Srikanthnath Reddy
				N. Nageswara Rao
				Smt J. Ashashaik
				D.Bheema(ST)
3	2007-08	04	01-09-2007	Y. Srinivasa Reddy
				P. Ramakrishna
				Smt N. Kshitija
				B. Saidulu
4	2009-10	03	01-09-2009	A.Shankaran
Total		15		

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8. In the G.O. 4th read above, Government issued year-wise final seniority lists of State Forest Service (SFS) Officers (Deputy Conservators of Forests & Assistant Conservators of Forests) as on 01.01.2010, 01.01.2011, 01.01.2012 and 01.01.2013, duly disposing the objections received against the same. Sri R. Kondala Rao also filed representation against the year-wise final seniority of State Forest Service Officers as on 01.01.2010, 01.01.2011, 01.01.2012 and 01.01.2013, which was also disposed along with others.

9. Sri R. Kondala Rao filed O.A.No.2649/2017 before the Hon'ble Andhra Pradesh Administrative Tribunal seeking notional promotion and seniority on par with Sri N. Nageswara Rao and the Hon'ble Andhra Pradesh Administrative Tribunal in its orders, dated 15.09.2017 directed the Government to consider all the facts and circumstances narrated in the representations of the applicant, dated 13.07.2017 and 19.07.2017 and pass appropriate orders before the selection process for IFS Cadre was finalized.

10. As per the orders of the Hon'ble Andhra Pradesh Administrative Tribunal, Government passed orders in Memo.No.4053/Sec.V/2017-5, dated 04.01.2018, duly informing the applicant (i.e. Sri R. Kondala Rao) that his request for review of the panel year 2009-10 to consider his promotion to the category of Deputy Conservator of Forests on par with his immediate junior, Sri N. Nageswara Rao, was not feasible under the rules, as he was facing disciplinary proceedings during the same period and the same were concluded by awarding the penalty. Further, later, on dismissal of the W.P.No.40722 of 2017 by the Hon'ble High Court of Andhra Pradesh, the representation of Sri R. Kondala Rao has been disposed by Government, based on the recommendations made by the Committee consisting of Principal Chief Conservator of Forests & Head of Forest Force, Andhra Pradesh and Principal Chief Conservator of Forests & HoFF, Telangana State, vide Govt.Memo.No.3004/Sec.V/2017-15, dated 09.05.2018.

11. In view of the judgement of Hon'ble Andhra Pradesh Administrative Tribunal and dismissal of W.P.No.40722/2017 by the Hon'ble High Court of Andhra Pradesh on 01.03.2018, the penalty imposed was dropped by Government in Memo. No.584/Sec.IV/A1/2016, Environment, Forests, Science & Technology (For.IV) Dept., dated 29.01.2019.

12. Sri R. Kondala Rao, Deputy Conservator of Forests / Divisional Forest Officer, Logging Division, Chintur filed O.A.No.1251/2018 before the Hon'ble Andhra Pradesh Administrative Tribunal against the Govt.Memo.No.3004/Sec.V/2017-15, dated 09.05.2018.

13. In the reference 5th read above, the Hon'ble Andhra Pradesh Administrative Tribunal in its orders, dated 02.04.2019 allowed the said O.A. and set-aside the said Govt.Memo.No.3004/Sec.V/2017-15, dated 09.05.2018. The operative portion of the orders is as follows:

"In view of the findings on Points (i) and (ii) in favour of the applicant, the impugned Memo No.3004/Sec.V/2017-15, dt.09.05.2018 is liable to be set-aside and is accordingly set-aside and the respondents are directed to forthwith accord notional promotion to the applicant in the category of Deputy

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Conservator of Forests in the panel year 2005-06 over and above his junior N.Nageswara Rao, Private Respondent No.3 and on such notional promotion, the applicant is entitled for all consequential benefits of seniority and notional pay fixation, and other benefits on par with N.Nageswara Rao, including recommendation by the state for conferring IFS cadre as was done in the case of N.Nageswara Rao."

14. Sri R. Kondala Rao filed a W.P.No.14355/2019 seeking directions to implement the orders of the Hon'ble Andhra Pradesh Administrative Tribunal, dated 02.04.2019 within a timeframe. Sri N. Nageswara Rao & others filed a W.P.No.7825/2019 against the orders of the Hon'ble Andhra Pradesh Administrative Tribunal orders in O.A.No.1251/2018, dated 02.04.2019. Government also filed a W.P. No.16509/2019 in the Hon'ble High Court of Andhra Pradesh against the orders of the Hon'ble Andhra Pradesh Administrative Tribunal, dated 02.04.2019.

15. In the reference 6th read above, the Hon'ble High Court of Andhra Pradesh disposed the three W.P.Nos.7825, 14355 & 16509 of 2019 by a common orders on 12.11.2019 with the following directions:

"In view of the foregoing discussion, in our considered opinion, the learned tribunal has rightly passed the order in O.A.No.1251 of 2018 setting aside the Memo, dt.09.05.2018 directing the respondent to consider the claim of the applicant for promotion on the post of Deputy Conservator of Forest and extend notional benefit which has been allowed to the incumbent juniors preponing their duty of promotions from 2005-2006. In such an order, we do not find any fault to interfere in exercising the jurisdiction under Article 226 & 227 of the Constitution of India. It is made clear that after such extension, the claim of the applicant may be considered for further promotion as IFS, as he has right at par with the incumbent juniors. It is further made clear that the aforesaid direction may now be carried out within a period of three (03) months from the date of communication of this order."

16. Against the above orders of the Hon'ble High Court of Andhra Pradesh, dated 12.11.2019, Government filed Special Leave Petition (SLP) in the Hon'ble Supreme Court of India with Diary No.13917/2020.

17. In the reference 7th read above, Sri R. Kondala Rao, Deputy Conservator of Forests has filed a [Contempt Case No.412/2020](#) in the Hon'ble High Court of Andhra Pradesh for not implementing the common orders of Hon'ble High Court of Andhra Pradesh issued in W.P.Nos.7825, 14355 and 16509 of 2019, dated 12.11.2019.

18. In the reference 8th read above, the Hon'ble Supreme Court of India dismissed the Special Leave Petition (SLP) Diary No.13917/2020 on 05.10.2020.

19. In view of the above, and as the Common Orders in W.P.Nos.7825, 14355 and 16509 of 2019, dated 12.11.2019 have become final, Government have examined the matter and came to a conclusion that the case of

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Sri R. Kondala Rao, Deputy Conservator of Forests attracts the provisions of para-4 of G.O.Ms.No.424, General Administration (Services-C) Department, dated 25.05.1976. Therefore, the Government, in exercise of the powers conferred under rule 25 of the Andhra Pradesh State and Subordinate Service Rules, 1996, have provisionally decided to accord notional promotion to Sri R. Kondala Rao, in the category of Deputy Conservator of Forests on par with his junior, Sri N. Nageswara Rao, Deputy Conservator of Forests in the panel year 2009-10 by relaxing rule-33 (a) of Andhra Pradesh State and Subordinate Service Rules, 1996, after giving an opportunity to the persons likely to be affected for making representation, if any. Accordingly, in the reference 10th read above, show cause notices have been issued to the affected parties and requested to submit their objections.

20. In the letter 11th read above, the Principal Chief Conservator of Forests & HoFF, Andhra Pradesh, Guntur has furnished the objections of Sri N. Nageswara Rao, IFS (SFS:2003), Conservator of Forests, Rajahmundry, Sri Y. Srinivasa Reddy, IFS (SFS:2004), CF&FD, PT Circle, Srisailam, Sri P. Rama Krishna, IFS (SFS:2005), Conservator of Forests, Kurnool and Sri K. Ashok Kumar, Deputy Conservator of Forests, CTSD, Tirupati against the provisional decision of the Government to accord notional promotion to Sri R. Kondala Rao in the category of Deputy Conservator of Forests.

21. The Principal Chief Conservator of Forests & HoFF, Andhra Pradesh has stated that Sri N. Nageswara Rao and others have filed Special Leave Petition (SLP) Diary No.18099/2020 and the same is pending on the same issue before the Hon'ble Supreme Court of India.

22. The Principal Chief Conservator of Forests & HoFF, Andhra Pradesh has further stated that the objections submitted by the above officers are mostly common in nature. Those objections may not be feasible for consideration in view of the common orders issued by the Hon'ble High Court of Andhra Pradesh in W.P.Nos.7825, 14355 and 16509 of 2019, dated 12.11.2019 and dismissal of Special Leave Petition (SLP) in the Hon'ble Supreme Court of India on 05.10.2020. The Principal Chief Conservator of Forests & HoFF, Andhra Pradesh, Guntur has requested to take further action in the matter.

23. After careful examination, Government have decided to confirm the provisional decision to accord notional promotion to Sri R. Kondala Rao, in the category of Deputy Conservator of Forests in the panel year 2009-10, by relaxing rule-33 (a) of Andhra Pradesh State and Subordinate Service Rules, 1996, and also notional promotion with consequential benefits from the panel year 2005-06 onwards, on par with his junior, Sri N. Nageswara Rao, Deputy Conservator of Forests, duly disposing of the objections raised by the officers and informing them that the Common Orders in W.P.Nos.7825, 14355 and 16509 of 2019, dated 12.11.2019 have become final and as the SLP in Dairy No.13917 of 2020 was dismissed by the Hon'ble Supreme Court of India. Accordingly, Government hereby accord notional promotion to Sri R. Kondala Rao, as Deputy Conservator of Forests in the panel year 2009-10 in relaxation of rule 33 (a) of Andhra Pradesh State and Subordinate Service Rules, 1996, and also notional promotion with consequential benefits from the panel year 2005-06 onwards, on par with his junior, Sri N. Nageswara Rao, Deputy Conservator of Forests, to comply with the orders of Hon'ble

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High Court of Andhra Pradesh, subject to outcome of Special Leave Petition (SLP) in Dairy No.18099 of 2020 filed by Sri N. Nageswara Rao & others before the Hon'ble Supreme Court of India and other court cases pending, if any, before the Hon'ble Courts.

24. The Principal Chief Conservator of Forests (HoFF), Andhra Pradesh, Guntur shall take further necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

VIJAY KUMAR GSRKR
SECRETARY TO GOVERNMENT

To

The Principal Chief Conservator of Forests & HoFF, Andhra Pradesh, Guntur.

The Principal Chief Conservator of Forests & HoFF, Telangana State, Hyderabad.

Sri R. Kondala Rao, Deputy Conservator of Forests / Divisional Forest Officer, Logging Division, Chintur through the Principal Chief Conservator of Forests & HoFF, Andhra Pradesh, Guntur.

Copy to:

Sri N. Nageswara Rao, IFS (SFS:2003), Conservator of Forests, Rajahmundry through the Principal Chief Conservator of Forests & HoFF, Andhra Pradesh, Guntur.

Sri Y. Srinivasa Reddy, IFS (SFS:2004), CF&FD,PT Circle, Srisailam through the Principal Chief Conservator of Forests & HoFF, Andhra Pradesh, Guntur.

Sri P. Rama Krishna, IFS (SFS:2005), Conservator of Forests, Kurnool through the Principal Chief Conservator of Forests & HoFF, Andhra Pradesh, Guntur.

Sri K. Ashok Kumar, Deputy Conservator of Forests, CTSD, Tirupati through the Principal Chief Conservator of Forests & HoFF, Andhra Pradesh, Guntur.

The PS to M (Energy, EFS&T).

The P.S. to Secretary to Government, EFS & T Department.

SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER